



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/161821

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 06, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Manitowoc County Department of Human Services in regard to Medical Assistance, a hearing was held on December 11, 2014, at Manitowoc, Wisconsin.

The issue for determination is whether the agency properly terminated BadgerCare+ (BC+) benefits effective December 1, 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Michele Koeppel

Manitowoc County Department of Human Services  
3733 Dewey Street  
Manitowoc, WI 54221-1177

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. Petitioner and her husband [REDACTED] were in BC+ extension beginning November 1, 2013 based on a change report on September 25, 2013 that [REDACTED] got a new job and household income was over 100% of the federal poverty level (FPL).

3. On November 19, 2013, the Petitioner reported that she was pregnant. In addition, pay statements for ■ were processed. Because household income was under 100% FPL, they were put back into regular BC+ with no premium on December 1, 2013.
4. On June 27, 2014, the Petitioner reported that ■ is working and submitted pay statements. They were placed back in BC+ extension on August 1, 2014 due to household income over 100% FPL but under 133% FPL with no premium.
5. On or about October 21, 2014, the Petitioner submitted an online renewal for FS benefits. She reported a household of four, including her husband ■ and two minor children. She reported employment for ■ at ■ with earned income that included biweekly 77 regular hours/pay period at \$14.74/hour and 1.38 hours overtime/pay period at \$22.11/hour. Actual pay statements from September 26, 2014 and October 10, 2014 were submitted. Petitioner also reported rent of \$625/month.
6. On November 30, 2014, Petitioner's BC+ extension ended.
7. On November 3, 2014, the agency issued a Notice of Decision to the Petitioner informing her that her BC+ benefits would end for Petitioner and ■ effective December 1, 2014 due to income exceeding the program limit. This was based on counted income of \$2,337.74 from ■'s employment, rent expense of \$625 and a standard utility expense.
8. On November 6, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

BadgerCare Plus (BC+) is a Wisconsin variant of MA for families with minor children, and pregnant women. Wis. Stat. §49.471; BC+ Eligibility Handbook. When BC+ household's income exceeds 100% of the federal poverty level for its group size due to an increase in earned income that household is granted a BadgerCare+ extension of 12 months. BC+ Handbook, §18.2.2. An extension of 4 or 12 months may also be granted for an increase in spousal support income. BC+ Handbook, §§18.3.2 and 18.3.2.1.

In this case, the Petitioner's household was placed in BC+ extension on November 1, 2013 when the household's earned income increased above 100% FPL. Later that month, the household was placed back in BC+ when earned income decreased. On August 1, 2014, the household was back in an extension when earned income increased. The BC+ Handbook addresses households going in and out of extensions:

#### 18.4 Income Changes During The Extension

During an Extension, a group or individual's income may decrease to an amount at or below 100% FPL for the group size and then increase again to exceed the 100% FPL. When the income decreases, the individual will be removed from the Extension and placed in regular BC+. The remaining months of the Extension will continue to run in the background. If the individual's countable income again increases above the 100% FPL, s/he would be eligible under the previous Extension for any remaining months. If the individual is eligible for a new Extension when the income again increases, because s/he meets all of the criteria above, choose the Extension which gives the longest coverage, and cancel the other.

Example 1: A BC+ group with a 12-month Extension from January through December has a decrease in income in February that puts them back below 100% FPL. The Extension continues to run while the group is on regular BC+. In October the group's countable income again increases to above 100% FPL, this time due to an increase in Child Support income. They are now eligible for a four-month child support Extension

which would run from November through February. Since the four month Extension would be longer than the current extension, apply the new four-month Extension.

The agency ended the Petitioner's twelve month earned income BC+ extension on November 30, 2014. The Petitioner argues that she was entitled to a new twelve month extension starting August 1, 2014. She testified that she was informed by the agency's call center that she would receive a new extension beginning August 1, 2014. She asserts that the language in §18.4 provides for a new twelve month extension when earned income increased a second time.

The agency argues that §18.4 states that the extension continues to run in the background when a household is in regular BC+ and a new extension may be granted only if the household qualifies for a different type of extension, i.e. a four or twelve month spousal support extension. It argues that §18.4 does not allow for a new twelve month earned income extension before the expiration of an earned income extension that is currently running.

The language of §18.4 states that the extension continues to run even if a household is put back into regular BC+ and that the household is eligible for the remaining months of the previous extension. This is the situation that we have in this case. Also, the example cited in §18.4 supports the agency interpretation that a previous extension may be cancelled if the household is eligible for a different type of extension that provides longer coverage.

Based on the evidence and the regulations, I conclude the agency properly determined that the Petitioner's BC+ benefits were terminated effective December 1, 2013.

### **CONCLUSIONS OF LAW**

The agency properly terminated Petitioner's BC+ benefits effective December 1, 2013.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 27th day of January, 2015

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 27, 2015.

Manitowoc County Department of Human Services  
Division of Health Care Access and Accountability